

Remarks

Claims 1, 14, and 21 have been amended. Claims 29 and 30 have been added. Claims 1, 3, 6-8, 13-16, 18-21, 23, and 25-30 are currently pending. Reconsideration of the merits of this application is respectfully requested in light of the above amendment and the following remarks.

No new matter has been inserted, support for the amendments to claims 1, 14, 21, and for new claims 29 and 30 can be found throughout the specification and at least at p. 11, lines 5-8, and p. 11, lines 33-36.

35 U.S.C. § 112, first paragraph

Claims 1, 6-8, 13-14, 20-23, and 25-26 were rejected by the Examiner under 35 U.S.C. § 112, first paragraph, as not enabled. The Applicants respectfully traverse this rejection.

Notably, this rejection has not been applied to claims 3 or 15 reciting the specific antibodies MOC31 and BM2. While not conceding the correctness of the Examiner's position, in the interest of advancing prosecution, claims 1, 14, and 21 have been amended to include reference to the MOC31 or BM2 antibodies, or antibodies binding to the same epitopes as MOC31 or BM2. This is in contrast to antibodies merely specific to epitopes on the antigen EGP2 or epitopes on the antigen expressed by the MUC1 gene. As the activity of an antibody as used in the invention is dependant on its specificity and as specificity is determined based on the epitope to which an antibody binds, the specification is, at least, enabling for antibodies binding to the same epitopes as antibodies MOC31 or BM2. Accordingly, claims 1, 14, and 21 are now enabled for at least the same reason that claims 3 and 15 were previously enabled. As claims 6-8, 13, 20, and 25 are dependant on claim 1, claims 16 and 18-19 are dependant on claim 14, and claim 23 is dependant on claim 21, they are also enabled. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

To the extent that the Examiner maintains the rejection, Applicant provides the following comments. The Examiner alleges that the effectiveness and selectivity of the antibodies is due to differences in epitopes exposed on the cancer cell as compared to normal cell antigens, and that

therefore the claims are not enabled. However, this is irrelevant where the claims are drawn to the MOC31 and BM2 antibodies or to antibodies binding to the same epitopes as MOC31 or BM2, as now required by the claims. Accordingly, Applicants assert the rejection is now moot and should be withdrawn.

The Examiner comments that the Applicant has not provided the entire Szala reference. In response, a full copy of the Szala reference is attached herewith.

35 U.S.C. § 103

Claims 1, 13, 14, and 24 were rejected by the Examiner under 35 U.S.C. § 103 as allegedly obvious for reasons previously set forth in Paper No. 20, Section 9, pages 5-7. The Applicants respectfully traverse this rejection.

The Examiner states that Applicant's argument regarding obviousness submitted in the reply of February 28, 2003 is not persuasive because the claims are not limited to MOC31 and BM7 or BM2. While not conceding the correctness of the Examiner's position, in the interest of advancing prosecution, claims 1, 14, and 21 have been amended to include reference to the MOC31 or BM2 antibodies, or antibodies binding to the same epitopes as MOC31 or BM2. Further, claims 29 and 30 are drawn to the MOC31 or BM7 antibodies, or antibodies binding to the same epitopes as MOC31 or BM7. This is in contrast to antibodies merely specific to epitopes on the antigen EGP2 or epitopes on the antigen expressed by the MUC1 gene. As the activity of an antibody as used in the invention is dependant on its specificity and as specificity is determined based on the epitope to which an antibody binds, the claims, as amended, are not obvious for at least the same reasons that claims limited to MOC31 and BM7 or BM2 are not obvious. Therefore, Applicants respectfully request that this rejection be withdrawn.

Conclusion

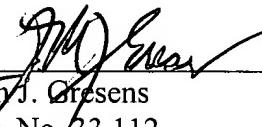
With the above amendments and remarks, Applicants believe that the claims pending in this patent application are in condition for allowance. Favorable consideration is respectfully

requested. If any further questions arise, the Examiner is invited to contact Applicants' representative at the number listed below.

Respectfully submitted,

MERCHANT & GOULD P.C.
P. O. Box 2903
Minneapolis, MN 55402-0903
(612) 332-5300

Date: Oct. 5, 2004


John J. Gresens
Reg. No. 33,112

CUSTOMER NUMBER 23552

JJG:MED:kf